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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,731	03/22/2005	Mirko Appel	2002P15759WOUS	8587
7590 02/26/2009 Siemens Corporation Intellectual Property Departement 170 Wood Avenue South Iselin, NJ 08830			EXAMINER LABBEES, EDNY	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MIRKO APPEL, WOLFANG FICK, & UWE GERK

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Appeal 2009-0845  
Application 10/528,731  
Technology Center 2600

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Mailed: February 26, 2009

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Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on August 28, 2008. A Docketing Notice was mailed and Appeal No 2009-0845 was assigned on October 27, 2008. A review of the application has revealed that the application was not ready for an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 12-22 of the instant application are set forth as method claims that may not fall with one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008, the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of “Processes” under 35 U.S.C. § 101.” This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. *See In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008)(en banc). Thus, there is a question as to whether claims 12-22 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 12-22 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS

Siemens Corporation  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, NJ 08830

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